

§ 1.668(a)-2A

after December 31, 1968, and ending after November 30, 1969, in which income is accumulated. Income will not be deemed to have been accumulated for purposes of applying section 668(a)(3) in a year if the trustee makes a determination, as evidenced by a statement on the return, to distribute all of the trust's income for such year and also makes a good faith determination as to the amount of such income and actually distributed for such year the entire amount so determined. The term "income," as used in the preceding two sentences, is defined in §§ 1.643(b)-1 and 1.643(b)-2. Since, under such definitions, certain items may be included in distributable net income but are not, under applicable local law, "income" (as, for example, certain extraordinary dividends), a trust that has undistributed net income from such sources might still qualify as a trust that has not accumulated income. Also, for example, if a trust establishes a reserve for depreciation or depletion and applicable local law permits the deduction for such reserve in the computation of "income," amounts so added to the reserve do not constitute an accumulation of income. If a trust has separate shares, and any share accumulates income, all shares of the trust will be considered to have accumulated income for purposes of section 668(a)(3). Amounts retained by a trust or a portion of a trust that is subject to subpart E (sections 671-678) shall not be considered accumulated income.

(d) See section 1302(a)(2)(B) to the effect that amounts included in the income of a beneficiary of a trust under section 668(a) are not eligible for income averaging.

[T.D. 7204, 37 FR 17148, Aug. 25, 1972]

§ 1.668(a)-2A Allocation among beneficiaries; in general.

The portion of the total amount includible in income under § 1.668(a)-1A which is includible in the income of a particular beneficiary is based upon the ratio determined under the second sentence of section 662(a)(2) for the taxable year (and not for the preceding taxable year). This section may be illustrated by the following example:

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Example. (a) Under the terms of a trust instrument, the trustee may accumulate the income or make distributions to A and B. The trustee may also invade corpus for the benefit of A and B. The distributable net income of the trust for taxable year 1975 is \$10,000. The trust had undistributed net income for taxable year 1973, the first year of the trust, of \$5,000, to which a tax of \$1,100 was allocable. On May 1, 1975, the trustee distributes \$10,000 to A, and on November 29, 1975, he distributes \$5,000 to B. Thus, of the total distribution of \$15,000, A received two-thirds and B receives one-third.

(b) For the purposes of determining the amounts includible in the beneficiaries' gross income for 1975, the trust is deemed to have made the following distributions:

Amount distributed out of 1975 income (distributable net income)	\$10,000
Accumulation distribution deemed distributed by the trust on the last day of 1973 under section 666(a)	5,000
Taxes imposed on the trust attributable to the undistributed net income deemed distributed under section 666(b)	1,100

(c) A will include in his income for 1975 two-thirds of each item shown in paragraph (b) of this example. Thus, he will include in gross income \$6,666.67 ($10,000/15,000 \times \$10,000$) of the 1975 distributable net income of the trust as provided in section 662(a)(2) (which is not an amount includable in his income under § 1.668(a)-1A(a)). He will include in his income \$3,333.33 ($10,000/15,000 \times \$5,000$) of the accumulation distribution and \$733.33 ($10,000/15,000 \times \$1,100$) of the taxes imposed on the trust, as provided in section 668(a).

(d) B will include in his income for 1975 one-third of each item shown in paragraph (b) of this example, computed in the manner shown in paragraph (c) of this example.

(e) To the extent the total accumulation distribution consists of undistributed net income and undistributed capital gain, A and B shall be treated as receiving a pro rata share of each for the preceding taxable year 1973.

[T.D. 7204, 37 FR 17148, Aug. 25, 1972]

§ 1.668(a)-3A Determination of tax.

In a taxable year in which an amount is included in a beneficiary's income under § 1.668(a)-1A(a), the tax on the beneficiary for such taxable year is determined only as provided in section 668 and consists of the sum of:

(a) A partial tax computed on (1) the beneficiary's taxable income reduced by (2) an amount equal to the total amounts includible in his income under § 1.668(a)-1A(a), at the rate and in the manner as if section 668 had not been enacted,

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(b) A partial tax determined as provided in § 1.668(b)–1A, and

(c) In the case of a beneficiary of a trust which is not required to distribute all of its income currently, a partial tax determined as provided in § 1.669(b)–1A.

[T.D. 7204, 37 FR 17148, Aug. 25, 1972]

§ 1.668(b)–1A Tax on distribution.

(a) *In general.* The partial tax imposed on the beneficiary by section 668(a)(2) shall be the lesser of:

(1) The tax computed under paragraph (b) of this section (the “exact” method), or

(2) The tax computed under paragraph (c) of this section (the “short-cut” method),

except as provided in § 1.668(b)–4A (relating to failure to furnish proper information) and paragraph (d) of this section (relating to disallowance of short-cut method). For purposes of this paragraph, the method used in the return shall be accepted as the method that produces the lesser tax. The beneficiary’s choice of the two methods is not dependent upon the method that he uses to compute his partial tax imposed by section 668(a)(3).

(b) *Computation of partial tax by the exact method.* The partial tax referred to in paragraph (a)(1) of this section is computed as follows:

(1) First, compute the tax attributable to the section 666 amounts for each of the preceding taxable years. For purposes of this paragraph, the “section 666 amounts” for a preceding taxable year are the amounts deemed distributed under section 666(a) on the last day of the preceding taxable year, plus the amount of taxes deemed distributed on such day under section 666 (b) or (c). The tax attributable to such amounts in each prior taxable year of the beneficiary is the difference between the tax for such year computed with the inclusion of the section 666 amounts in the beneficiary’s gross income and the tax for such year computed without including them in such gross income. Tax computations for each such year shall reflect a taxpayer’s marital, dependency, exemption, and filing status for such year. To the extent the undistributed net in-

come of a trust deemed distributed in an accumulation distribution includes amounts received as an accumulation distribution from another trust, for purposes of this paragraph they shall be considered as amounts deemed distributed by the trust under section 666(a) on the last day of each of the preceding taxable years in which such amounts were accumulated by such other trust. For example, assume trust Z, a calendar year trust, received in its taxable year 1975 an accumulation distribution from trust Y, a calendar year trust, that included undistributed net income and taxes of trust Y for the taxable years 1972, 1973, and 1974. To the extent an accumulation distribution made by trust Z in its taxable year 1976 includes such undistributed net income and taxes, it shall be considered an accumulation distribution by trust Z in the taxable year 1976 and under section 666(a) will be deemed distributed on the last day of the preceding taxable years 1972, 1973, and 1974.

(2) From the sum of the taxes for the prior taxable years attributable to the section 666 amounts (computed in accordance with subparagraph (1) of this paragraph), subtract so much of the amount of taxes deemed distributed to the beneficiary under §§ 1.666(b)–1A and 1.666(c)–1A as does not exceed such sum. The resulting amount, if any, is the partial tax, computed under the exact method, for the taxable year in which the accumulation distribution is paid, credited, or required to be distributed to the beneficiary.

(3) The provisions of this paragraph may be illustrated by the following example:

Example. (i) Assume that in 1979 a trust makes an accumulation distribution of \$15,000 to A. The accumulation distribution is allocated under section 666(a) in the amounts of \$5,000 to 1971, \$4,000 to 1972, and \$6,000 to 1973. Under section 666 (b) and (c), taxes in the amounts of \$935, \$715, and \$1,155 (totaling \$2,805) are deemed distributed in 1971, 1972, and 1973, respectively.

(ii) A, the beneficiary, had taxable income and paid income tax in 1971–73 as follows:

Year	Taxable income	Tax
1971	\$10,000	\$2,190
1972	12,000	2,830
1973	14,000	3,550